

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2036.03
COMPLAINT INVESTIGATOR: Sally Cook
DATE OF COMPLAINT: May 8, 2003
DATE OF REPORT: June 3, 2003
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: June 25, 2003

COMPLAINT ISSUES:

Whether the Duneland School Corporation and the Porter County Education Interlocal violated:

511 IAC 7-27-2(a) by failing to schedule a case conference committee (CCC) meeting at a mutually agreed upon date, time, and place.

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically, failing to provide a progress report.

FINDINGS OF FACT:

1. The Student is sixteen years old and is eligible for special education and related services as a student with a health impairment.
2. The Student's case conference committee (CCC) met on April 8, 2003, and did not complete the Student's individualized education program (IEP) within the timeframe that had been allotted by the School for the meeting. The discussions regarding the time and place for the next CCC meeting occurred in person during the CCC meeting on April 8, 2003. (The date was to be determined later.) It appeared to the School that an additional two hours of meeting time would be necessary to complete the Student's individualized education program (IEP) including course selection and class schedule.
3. The Complainant, who had taken time off from work on April 8, 2003, proposed that the next CCC meeting begin after 4:00 p.m. so that she would not have to take still more time away from her job. The Complainant also sought to reduce the amount of her travel time by suggesting a meeting place closer to her place of employment. Specifically, the Complainant proposed holding the next CCC meeting at the special education planning district's office, which is twenty minutes closer than the School.
4. School staff preferred meeting during the school day. The teachers' work day ends at 3:00 p.m. As to the place of the next CCC meeting, the guidance counselor noted that the CCC would not have access to the School's master class schedule if the next CCC meeting were held at a place other than the School.
5. The local director, serving as the representative of the school corporation, proposed that the next CCC meeting would begin at 3:30 p.m. at the School and end about 5:30 p.m. The CCC notes refer to this as a compromise. The Complainant's spouse (Student's Other Parent) and the advocate stated that they could arrive at the School by 3:30 p.m.

6. The Complainant did not agree to the time of the next CCC meeting and, to the extent that the place was linked to the time, the Complainant did not agree to the place.
7. On April 21, 2003, and on April 23, 2003, the teacher of record mailed to the parents Case Conference Notifications that the next CCC meeting would be April 28, 2003, at 3:30 p.m. at the School. The form of notice used by the school corporation includes the statement, "If for any reason you are unable to attend at the stated time, please notify me as soon as possible so that other arrangements can be made." The date of April 28, 2003, was agreeable to the Complainant. As the Complainant perceived that the School had determined the date, time, and place of the CCC meeting, and as the Complainant was able to attend the CCC meeting by arranging for additional time off from work, the Complainant did not contact the School to re-open discussion of the time and place of the CCC meeting.
8. The Complainant, the Other Parent, and the advocate arrived on time (3:30 p.m.) for the CCC meeting on April 28, 2003.
9. The Student's IEP required a progress report to be sent to the Student's parents in March, 2003. The parents did not receive the progress report. March 21, 2003, was the end of the third grading period of the 2002-2003 school year, and general education report cards were distributed on or about March 31, 2003, following spring break. IEP progress reports are mailed to parents, not hand-delivered to students during homeroom period when report cards are distributed.
10. On April 8, 2003, during the CCC meeting, the Complainant informed the School that the March progress report had not been received.
11. The School has a system in place to track the distribution of progress reports. Paraprofessionals use a checklist to document the submission of each teacher's progress reports as well as the paraprofessionals' copying, stuffing, and mailing of progress reports. The paraprofessionals' checklist indicates that the Student's teacher of record submitted March progress reports, and that the March reports were copied, stuffed, and mailed March 20, 2003. No other parents of the Student's teacher of record have notified the School that they did not receive a March progress report.
12. A copy of the progress report was attached to the case conference report/IEP that was provided to the parents on or about May 12, 2003.

CONCLUSIONS:

1. Findings of Fact #2, #3, #4, #5, #6, and #7 indicate that the School and a parent of the Student mutually agreed upon the time for the case conference committee meeting on April 28, 2003, and the School notified the Complainant of the person to contact if the proposed date, time, or place was not agreeable. When a Student has two joint custodians (including married parents), the School is not required to reach agreement with each of the two parents, individually, to arrange a mutually agreed upon date, time and place for a case conference committee meeting. Therefore, no violation of 511 IAC IAC 7-27-2(a) occurred.
2. Findings of Fact #9, #10, and #11 indicate that, despite the School's tracking system, the parents were not informed, at least as often as parents are informed of their nondisabled students' progress, of the Student's progress toward the annual IEP goals and the extent to which that progress is sufficient to enable the Student to achieve the goals by the end of the twelve-month period. Therefore, a violation

of 511 IAC 7-27-7(a) occurred. However, Finding of Fact #11 indicates that a tracking system is in place, and Finding of Fact #12 indicates that appropriate corrective action has been taken.

The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.